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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,588	04/23/2001	Andrew J. Castellano	39499/FLC/B600	5370

7590 03/11/2005  
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EXAMINER
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LEE, CHI HO A

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/841,588	<b>Applicant(s)</b> CASTELLANO ET AL.	
	<b>Examiner</b> Andrew Lee	<b>Art Unit</b> 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2001.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☒ Claim(s) 6 and 7 is/are allowed.  
 6) ☒ Claim(s) 1-5 and 8-18 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 23 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/8/02</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-5, 11-13, 15-18 are rejected under 35 U.S.C. 112; second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re Claims 3, 11, 15-17, it is unclear what is meant by, "a marginal operational network channel". "a marginal operational network channel" will not be given weight. As a suggestion, Applicant should delete "a marginal operational network channel".

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 8, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Barakat et al U.S. Patent Number 6,700,898.

Re Claims 1, 8, 10, '898 teaches in fig. 6, a Ethernet device 600 that includes plurality of LEDs for visual inspection (generating a link quality indicator) of the health of

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the transceivers (See col. 2, lines 1-5), whereby the health of the transceiver is determined by receiving plurality of status information (see col. 3, lines 50-65).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, 9, 11, 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barakat et al U.S. Patent Number 6,700,898 in view of U.S. Patent Number 6,459,700.

Re Claims 2, 9, 14, '898 teaches a LED that indicates the health or quality of the transceiver link based on plurality of status signals that includes auto-negotiation complete status signal, link status signal, and local receiver status (See fig. 7). '898 fails to explicitly teach "generating a first aperiodic link quality indicator...operational network channel; and a second aperiodic quality indicator...an inoperative network channel.". However, '700 teaches a power LED that indicates the general status of the transceiver whereby one or more failure or fault conditions are indicated by the color or the LED and flashing frequency (blinking or not) of the Status LED (See col. 20, lines 28-43). One skilled in the art would have been motivated by '700 to modify the LED health indicator in '898 to indicate different statuses of the transceiver. In this case, depending on the plurality of status signals, green non-blinking LED (a first aperiodic link quality indicator) can indicate a operative network channel and yellow non-blinking

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indicator (a second aperiodic link quality indicator) can indicate a non-operative network channel.

Re Claims 3, 11, 15-18, refer to claim 2, wherein the flashing/blinking frequency of the LED (a periodic link quality indicator) can be modified to indicate the general status of the transceiver such as "a receive error status", "a mean square error status", "a receive error status signal", and "a means square error status" wherein the general status is dependent on the received plurality of status signals (a second subset of the plurality of communication status signals).

***Allowable Subject Matter***

7. Claims 6 and 7 are allowed.
8. Claims 4, 5, 12, 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In combination with claims (1, 3, 4) & (8, 11, 12), prior art fails to determine a period of the periodic link quality indicator signal based on the second subset of the plurality of communication status signals.

The following is a statement of reasons for the indication of allowable subject matter:

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In claim 6, prior art fails to teach generating a first and second period of time for the link quality indicator signal based on the MSE status signal and the SNR threshold status signal.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ANDY LEE  
PATENT EXAMINER

AI  
3/01/05

